



CITY OF HAYWARD

AGENDA REPORT

AGENDA DATE 06/20/06

AGENDA ITEM _____

WORK SESSION ITEM WS#2

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Request for Formation of Benefit District on Picea Court

RECOMMENDATION:

It is recommended that Council review and comment on this report.

DISCUSSION:

At the May 23 Council meeting, Mr. Neil Shumate addressed Council concerning his application for a Sewer Benefit District associated with work he had performed to connect his home at 4075 Picea Ct. to the City's sewer system. Council directed staff to review his concerns and report back, which is the genesis of this work session item.

In June 2003, Alameda County issued an abatement order directing Mr. Shumate to connect to a public sewer by December 2003 because his septic system had failed. On September 14, 2004, Council authorized a Utility Service Agreement (USA) for Mr. Shumate following standard City procedures. Since Mr. Shumate needed to connect to the sewer main crossing Picea Ct., his property was also amended into an existing Benefit District, which was created in 1993 to partially reimburse the developer of the Prominence Development for construction of a sewer main from the tract to Oakes Dr.

Prior to and at the September 14 hearing, some of Mr. Shumate's neighbors indicated they were concerned about the process of work affecting their private street (Picea Ct.) and were vocal about not wanting to pay into any benefit district in the future. After Council's approval of the USA, staff worked with Mr. Shumate to approve plans for his connection to the City's public sewer. As a condition of receiving sewer service, Mr. Shumate was required to construct a separate manhole to receive his pump line and to connect that manhole to an existing manhole with 10 ft of 6" sewer pipe. The City avoids, wherever possible, having a pumped system terminating into a manhole on a major sewer main because of the difficulties that can occur in maintaining the main sewer with an active pump system into it. This small gravity extension of the City's sewer main is part of our public system and the rest of his pumped system is private. The plans for this work were approved in January 2005, and the construction completed in February 2005. During the construction, there were again disputes between Mr. Shumate and his neighbors. Specifically, Mr. Jardine had the Sheriff's department stop the contractor over issues of approval for work in Picea Ct. and insurance requirements to protect the other homeowners.

After the work was completed, Mr. Shumate applied to the City in March 2005 to establish a benefit district. He believed that by doing so, his neighbors would have to reimburse him for some of his costs, should they want to connect to the manhole and 10 ft section of public sewer main he had constructed. Staff acknowledges that, due to both heavy workload and a change/shortage of personnel handling development review applications in Planning, Mr. Shumate's application and deposit check of \$3000 were lost, and little or no progress was made through April 2006. Although Council had approved the USA, and initial contact had been made with LAFCO about administratively approving the USA based on the existing health emergency, it was also determined about this same time that necessary work had not been done to formally approve the USA by LAFCO. Staff is presently working to complete that process. While this is not of concern to Mr. Shumate, since he was able to make his connection and return to normal use of his home, it is important to complete the process for the City.

Mr. Shumate is concerned because he received the attached letter (Exhibit B) indicating that staff had decided it was not appropriate to process his benefit district request and that his deposit was being returned. Several factors contributed to the decision to discontinue work on the Benefit District:

- (a) The amount of work installed on the public system was small: 10 Lineal feet of sewer main and a manhole;
- (b) The history of disputes in the area and Mr. Shumate's own statements, indicate there will likely be significant objections to the establishment of a benefit district which, implies that the costs of establishing the district could be significant – especially as compared to the amount of reimbursable work;

Mr. Shumate has argued that this is unfair because previous benefit districts have been processed in the county. Staff reviewed all twelve of the benefit districts initiated under the City's revised procedures established by ordinance in 1991. Prior to that date, the procedures were simpler in that the Public Works Director established a reimbursement rate for recovery by initial installers. Of the recent benefit districts, the minimal length of sewer or water improvements was 300 ft and the lowest associated cost was \$25,000 (1995 dollars). Specifically, the benefit district for the Tsurus on Arbutus Ct. was for installation of 400 ft of sewer main and manhole for a verified cost of \$54,000. While Mr. Shumate claims he has paid over \$17,000 for the small amount of public improvements, a reasonable cost and the required Engineer's estimate indicates a value of \$8000.

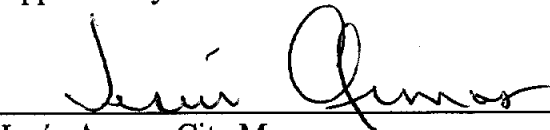
After again evaluating all the facts, staff does not recommend processing a benefit district for Mr. Shumate. Staff has apologized for any inconvenience this has caused Mr. Shumate but has assured Mr. Shumate he will not be charged for any staff work associated with the request. Of course, if Council believes Mr. Shumate's request should be processed to a final decision on establishing a benefit district, staff will work with Mr. Shumate and the affected county residents to complete the process.

Recommended by:



Robert A. Bauman, Director of Public Works

Approved by:



Jesús Armas, City Manager

Attachments:

Exhibit A: Location Map

Exhibit B: May 12, 2006 Letter to Mr. Shumate

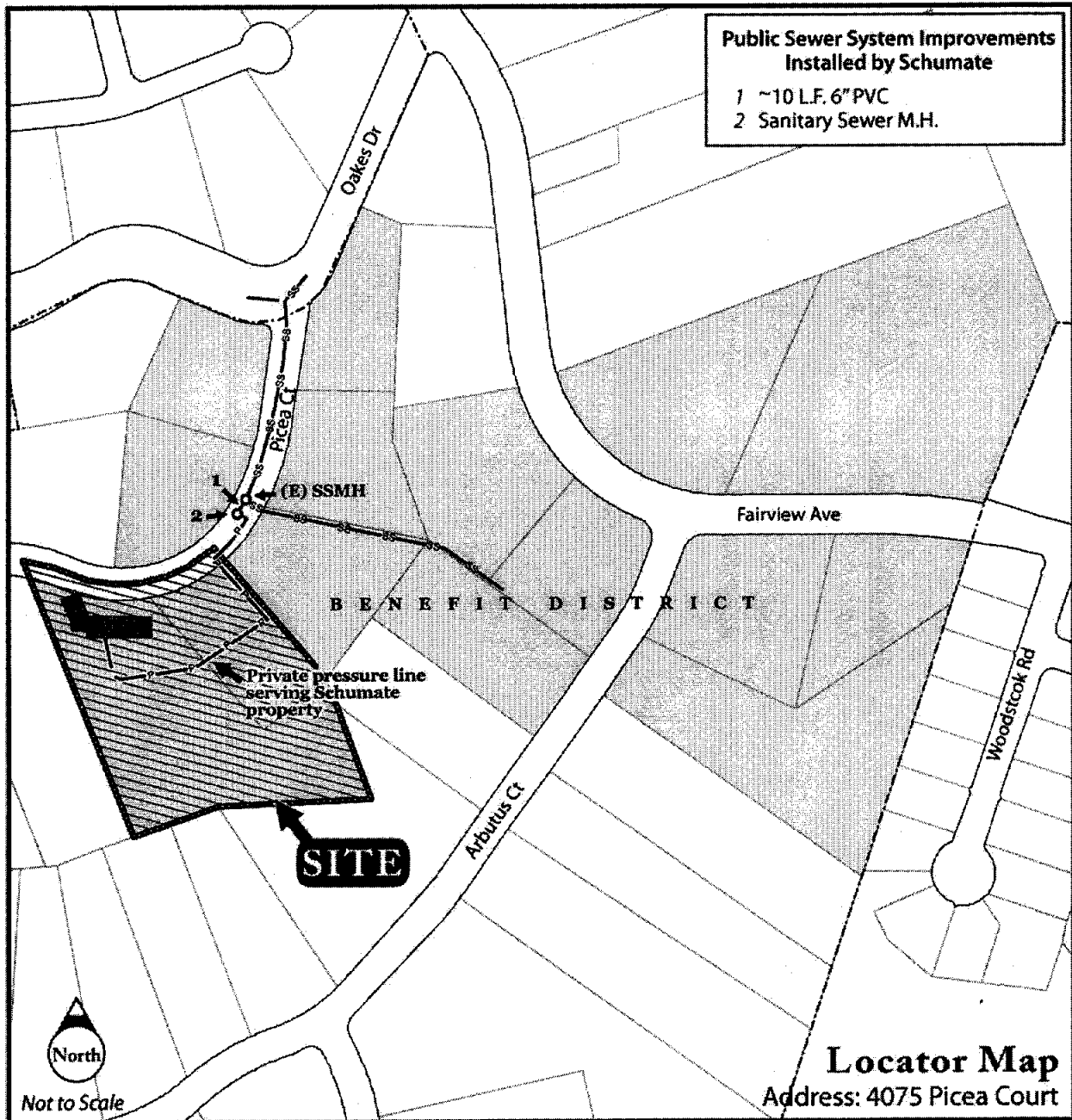


Exhibit A



CITY OF
HAYWARD
HEART OF THE BAY

May 12, 2006

Mr. Neil Shumate
44254 Thomas Creek Drive
Scio, Oregon 97374-9324

Subject: Application for Benefit District Formation on Picea Court

Dear Mr. Shumate:

In reference to the subject application, and after careful consideration of the issues, we do not believe it is appropriate to process the requested benefit district. Your initial deposit of \$3,000 for forming the district is, therefore, being returned to you.

Our judgment is that proceedings for the formation of the district will be terminated upon a majority written protest from properties within the proposed district. Given that the likely costs of forming the district could exceed the initial deposit and given that the amounts to be recovered are comparatively small, we believe it is best to discontinue processing the application at this time.

Sincerely,

Robert A. Bauman,
Director of Public Works

Enclosure

cc: Bashir Anastas, Development Review Engineer
Maureen Conneely, Assistant City Attorney

Exhibit B

DEPARTMENT OF PUBLIC WORKS
ADMINISTRATION

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